

VIRGINIA WATER QUALITY IMPROVEMENT FUND

GUIDELINES

PUBLIC COMMENT DRAFT

Issued by:
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Richmond, Virginia
July 24, 2006

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GUIDELINES

INTRODUCTION

The purpose of the Virginia Water Quality Improvement Act of 1997 (Act) is “to restore and improve the quality of state waters and to protect them from impairment and destruction for the benefit of current and future citizens of the Commonwealth” (Section 10.1-2118 of the *Code of Virginia*). The Act was amended in 2005 to better reflect current water quality needs and priorities in Virginia particularly the implementation of Chesapeake Bay “Tributary Strategy Plans” and the removal of Virginia waters on the Clean Water Act list of impaired waters. Because this is a shared responsibility between state and local governments and individuals, the Act also creates The Water Quality Improvement Fund (Fund). The Code establishes the purpose of the Fund “to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs” (Section 10.1-2128.B. of the *Code of Virginia*).

The Department of Environmental Quality has the responsibility to provide technical and financial assistance to local governments, institutions of higher education and individuals for the control of point source pollution. The Department of Conservation and Recreation has the responsibility to provide technical and financial assistance to local governments, soil and water conservation districts, institutions of higher education and individuals for nonpoint source pollution prevention, reduction and control programs. Because of the nature of nonpoint source pollution controls, the Department of Conservation and Recreation will seek the assistance and support of other state agencies to provide the necessary expertise and resources to properly implement the nonpoint source elements of the Act.

Payments into the Water Quality Improvement Fund in accordance with the Chesapeake Bay Watershed Nutrient Exchange Program created under 62.1-44.19:12 shall be utilized in a manner to achieve point or nonpoint source reductions in accordance with the requirements established in the nutrient exchange program in addition to the requirements presented in these guidelines. Since the fund is nonreverting, any money not spent in the fiscal year appropriated will remain in the Fund for use in subsequent years. Note that grants from the Fund will be provided as matching funds to the recipient.

DEFINITIONS

The following definitions apply to these guidelines:

“**Agricultural Best Management Practice**” as used within these guidelines shall mean those practices outlined within the Virginia Agricultural BMP Manual published by the Department of Conservation and Recreation.

“**Biological nutrient removal technology**” means technology that will typically achieve at least an 8 mg/L total nitrogen concentration or at least a 1 mg/L total phosphorus concentration in effluent discharges.

“**Chesapeake Bay Agreement**” means the Chesapeake Bay Agreement of 2000 and any amendments thereto.

“**Eligible nonsignificant discharger**” means any publicly owned treatment works that is not a significant discharger but due to expansion or new construction is subject to a technology-based standard under Virginia Code § 62.1-44.19:15 or 62.1-44.19:16.

“**Fund**” means the Virginia Water Quality Improvement Fund established by the Virginia Water Quality Improvement Act, Virginia Code Section §10.1-2128 of the Code of Virginia.

“**Housing unit**” means a house, apartment, mobile home or trailer, or a single room occupied as separate living quarters, for the purpose of establishing the number of individual connections subject to a residential sewer charge.

“**Impaired water**” means water that is not meeting one or more state water quality standards, as required by the Clean Water Act; water with fish or shellfish harvesting prohibition by the Virginia Department of Health; and/or water where biological monitoring indicates moderate to severe impairment and is listed by stream segment on Virginia’s 303(d) Total Maximum Daily Load Priority List.

“**Individual**” means any corporation, foundation, association or partnership, or one or more natural persons.

“**Institutions of higher education**” means any educational institution meeting the requirement of Virginia Code Section §60.2-220 of the Code of Virginia.

“**Local government**” means any county, city, town, municipal corporation, authority, district (including soil and water conservation districts), commission or political subdivision of the Commonwealth.

“**Nonpoint source pollution**” means pollution of state waters washed from the land surface in a diffuse manner and not resulting from a discernible, defined or discrete conveyance.

"Nutrient removal technology" means state-of-the-art nutrient removal technology, biological nutrient removal technology, or other nutrient removal technology.

"Nutrients" means nitrogen and phosphorus.

"Point source pollution" means pollution of state waters resulting from any discernible, defined or discrete conveyance.

"Publicly-owned treatment works" means a publicly-owned sewage collection system consisting of pipelines or conduits, pumping stations and force mains, and all other construction, devices, and appliances appurtenant thereto, or any equipment, plant, treatment works, structure, machinery, apparatus, interest in land, or any combination of these, not including an onsite sewage disposal system, that is used, operated, acquired, or constructed for the storage, collection, treatment, neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal of wastewater, or for the final disposal of residues resulting from the treatment of sewage, including but not limited to: treatment or disposal plants; outfall sewers, interceptor sewers, and collector sewers; pumping and ventilating stations, facilities, and works; and other real or personal property and appurtenances incident to their development, use, or operation.

"Preliminary Engineering Report" (or "Proposal") means an engineering report and preliminary plans which shall contain the necessary data to portray the sewerage system or treatment works problems and solutions, as defined in Virginia Administrative Code 9 VAC 25-790-110.

"Reasonable sewer costs" means the amount expended per ~~household~~ housing unit for sewer service in relation to the median household income of the service area as determined by guidelines developed and approved by the State Water Control Board for use with the Virginia Water Facilities Revolving Loan Fund established pursuant to Virginia Code Chapter 22 (§ 62.1-224 et seq.) ~~of Title 62.1.~~

"Sediment" means 1) soil particles which become dislodged and mobilized by water in the form of rain once the absorption capacity of the soil is exceeded, resulting in erosion of the land, and transport of soil to a receiving waterbody, and 2) soil particles that are dislodged from streambanks and shorelines by agents such as fast-moving water or wind, or animals, or soil particles transported by wind from distant sources and directly deposited in a waterbody.

"Significant discharger" means (i) a publicly-owned treatment works discharging to the Chesapeake Bay watershed with a design capacity of 0.5 million gallons per day or greater, (ii) a publicly-owned treatment works discharging to the Chesapeake Bay watershed east-downstream of the fall line with a design capacity of 0.1 million gallons per day or greater, (iii) a planned or newly expanding publicly-owned treatment works discharging to the Chesapeake Bay watershed, which is expected to be in operation by 2010 with a permitted design of 0.5 million gallons per day or greater, or (iv) a planned or newly expanding publicly-owned treatment works discharging to the Chesapeake Bay watershed east-downstream of the fall line with a design capacity of 0.1 million gallons per day or greater, which is expected to be in operation by 2010.

“**Southern Rivers Watersheds**” means those watersheds located in Virginia that drain to water bodies other than the Chesapeake Bay including waters draining directly to the Atlantic Ocean.

“**State-of-the-art nutrient removal technology**” means technology that will achieve at least a 3 mg/L total nitrogen concentration or at least a 0.3 mg/L total phosphorus concentration in effluent discharges.

“**State waters**” means all waters on the surface or under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdictions.

“**Suspended solids**” means the portion of total solids in water that is retained by a glass fiber-filter. Suspended solids analyses are important in the control of biological and physical wastewater treatment processes and for assessing compliance with regulatory wastewater effluent limits. The measurement of suspended solids is commonly used as a water quality parameter to assess the amount of sediment entering a waterbody.

“**Total Maximum Daily Load**” (TMDL) means the maximum amount of a pollutant that a waterbody can receive without violating water quality standards. A TMDL includes best estimates of pollution from nonpoint sources, natural background sources, pollution from point sources, a margin of safety, and takes into account seasonal variations.

“**Tributary Strategy Plans**” means plans that are developed by the Secretary of Natural Resources pursuant to the provisions of the Chesapeake Bay Agreement for the tidal tributaries of the Chesapeake Bay and the tidal creeks and embayments of the western side of the Eastern Shore of Virginia. This term shall include any amendments to the tributary strategy plans initially developed by the Secretary of Natural Resources pursuant to the Chesapeake Bay Agreement.

“**Water Quality Improvement Grants**” means grants available from the Fund to local governments, institutions of higher education, and individuals for projects designed (i) to achieve nutrient reduction goals in tributary strategy plans or applicable regulatory requirements or (ii) to achieve other water quality restoration, protection or enhancement benefits.

DEVELOPMENT OF THESE GUIDELINES

Section 10.1-2129.B. of the *Code of Virginia* specifies that “the Secretary of Natural Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the Commissioner of Agriculture and Consumer Services, and Directors of the Departments of Environmental Quality and Conservation and Recreation and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Chesapeake Bay Local Assistance Board, shall develop written guidelines that (i) specify eligibility requirements; (ii) govern the application for and distribution and conditions of Water Quality Improvement Grants; and (iii) list criteria for prioritizing funding requests.”

The Code also specifies that “in developing the guidelines the Secretary shall evaluate and consider, in addition to such other factors as may be appropriate to most effectively restore, protect and improve the quality of state waters: (i) specific practices and programs proposed in any tributary strategy plan and the associated effectiveness and cost per pound of nutrients removed; (ii) water quality impairment or degradation caused by different types of nutrients released in different locations from different sources; and (iii) environmental benchmarks and indicators for achieving improved water quality. The process for development of guidelines pursuant to this subsection shall at a minimum, include (a) use of an advisory committee composed of interested parties; (b) a sixty-day public comment period on draft guidelines; (c) written responses to all comments received; and (d) notice of the availability of draft guidelines and final guidelines to all who request such notice.”

For information regarding these guidelines, contact the Office of the Secretary of Natural Resources at 804-786-0044 or visit www.naturalresources.virginia.gov. Information is also available from the Department of Environmental Quality (www.deq.virginia.gov) and the Department of Conservation and Recreation (www.dcr.virginia.gov). Specific contact information is on page 20 of this document.

SECTION B

POINT SOURCE PROJECTS

CHAPTER I: PROGRAM COMPONENTS

I. Goals and Objectives

The main objectives of the Water Quality Improvement Fund (WQIF) point source program are as follows:

1. Concentrate efforts on implementing point source nutrient control actions proposed in the tributary strategy plans, as defined by Virginia Code Section §10.1-2117 of the Code of Virginia, and assist eligible facility owners in complying with applicable regulatory requirements for reducing nutrient discharges in the Chesapeake Bay watershed.
2. Make the WQIF compatible and consistent with existing funding programs administered by the Department of Environmental Quality (DEQ) Construction Assistance Program (CAP).
3. Enhance customer service and convenience by integrating the WQIF procedures, to the maximum extent possible, with those in use by the CAP. This may include:
 - schedules for application, review, and award;
 - general notifications, solicitation letters, and public participation methods;
 - application information and documentation for reimbursement requests;
 - criteria for prioritizing projects;
 - definitions for eligible components of the scope of work;
 - assessment of “reasonable sewer costs” as defined by Virginia Code Section §10.1-2177; and
 - construction evaluations on active projects.
4. Subsequent to ~~implementation of the tributary strategy plans~~ cost-sharing the design and installation of nutrient removal technology at eligible publicly owned treatment works and as available funding allows, support other projects related to point source pollution controls that are clearly demonstrated as likely to achieve measurable and specific water quality improvements.
5. Assist with identifying other potential funding sources for the local share of projects.
6. Support and enhance the point source pollution program through separate technical assistance funding made available to local governments and individuals.

II. Project Prioritization - Funding Distribution

The Virginia Water Quality Improvement Act (the “Act”) directs the Secretary of Natural Resources to develop:

- written guidelines for distribution and conditions of WQIF awards; and
- criteria for prioritizing funding requests outside the Bay watershed.

For projects located in the Chesapeake Bay watershed, the Act requires that the Director of the Department of Environmental Quality enter into grant agreements with all facilities designated as significant dischargers or eligible nonsignificant dischargers that apply for grants.

For projects located outside the Chesapeake Bay watershed, the criteria for prioritizing funding requests include:

- the pounds of nutrient reduction for each project;
- whether the location of the project is within a watershed or subwatershed with documented nutrient loading problems or adopted nutrient reduction goals;
- whether the location of the project is within a watershed with a documented water quality impairment; and
- availability of other funding mechanisms.

III. Project Eligibility

The WQIF is currently a special-purpose grant program, and the type and location of a point source project eligible for funding is specified under Section 10.1-2131 of the Act. Until all tributary strategy plans are developed and implemented, grants shall only be made for the purpose of financing the cost of design and installation of ~~biological nutrient removal facilities or other nutrient removal technology~~ at publicly-owned treatment works designated by DEQ as a significant discharger or eligible nonsignificant discharger. For purposes of these guidelines, publicly-owned treatment works that use the Public-Private Education Facilities and Infrastructure Act (the “Act”; Section 56-757.1, et seq.) to facilitate design and installation of nutrient removal technology shall be eligible for WQIF grant funds available pursuant to §10.1-2129.A.2 of the Water Quality Improvement Act. A tributary strategy plan is considered “implemented” regarding point source actions when the plan’s recommended point source nutrient controls have been installed.

Funding for projects other than nutrient removal technology within the Chesapeake Bay Watershed is permitted if the Director of the DEQ determines that there is sufficient funding available for substantial and continuing progress in implementing the tributary strategies (Section 10.1-2131.C. of the Act). Such eligible projects must clearly demonstrate the likelihood of achieving measurable and specific water quality improvements.

The General Assembly may designate through the Appropriations Act the allocation of funds deposited into the Fund. These designations may detail circumstances under which a grantee is

eligible for funding, who otherwise would not be eligible according to these guidelines. Information on any such special appropriations and eligibility criteria contained in a future Appropriations Act will be included in the Request for Proposals soliciting WQIF Point Source Grant Applications.

IV. Allowable Costs

Under the Water Quality Improvement Act, WQIF point source grants shall be used solely to finance the costs of design and installation of ~~biological nutrient removal facilities or other~~ nutrient removal technology at publicly-owned treatment works for compliance with the effluent limitations for total nitrogen and total phosphorus as required by the tributary strategy plans or applicable regulatory requirements. ~~Subsequent to the implementation of the tributary strategy plans, or if the Director makes the finding provided for in Section 10.1-2131.C of the Act, the DEQ Director may authorize WQIF grants for projects that are clearly demonstrated to achieve measurable and specific water quality improvements.~~ The program will allow ~~that nutrient control-removal technology~~ systems to be sized to treat the flow in any reasonable and necessary expansion of the wastewater facility, which is generally limited to a 20-year design life. In general, associated pre-design and final design costs will be eligible for cost share. Joint or regional projects that involve more than one publicly-owned facility are eligible and encouraged where cooperative arrangements exist and economies of scale may be realized.

As provided in ~~Section §~~10.1-2131.C. of the Act, the cost for design and installation of ~~biological nutrient removal, state-of-the-art nutrient removal technology, or other nutrient control technology~~ (including recycle/reuse) at publicly-owned treatment works meeting the nutrient reduction goal in an approved tributary strategy plan or applicable regulatory requirement and incurred prior to execution of a grant agreement is eligible for reimbursement from the WQIF. Such expenses must be necessary and attributable to the project and the debt must be incurred or construction begun after June 2000 (when the Chesapeake 2000 Agreement established the revised nutrient reduction goals aimed at removing the Bay and its tidal tributaries from the “Impaired Waters List” by 2010). Reimbursement shall be made pursuant to an executed agreement consistent with the Act. If the original source of funding for the nutrient reduction facilities was the State-Virginia Clean Water Revolving Loan Fund (VCWRLF), the WQIF grant shall be applied to the principal of any outstanding balance of the loan.

The purchase of land, easements, and/or rights-of-way are not allowable costs, nor are any legal, administrative, and engineering expenses related to these purchases, unless the land is an integral part of the treatment process. Other stipulations on allowability of cost may also apply, and all costs are reviewed and considered on a case-by-case basis.

V. Reimbursement

Disbursement of grant funds is made on a periodic reimbursement basis not more frequently than once per month. Invoices must substantiate all requests for disbursement of grant funds. All payment requests must be reviewed and approved by DEQ staff prior to actual disbursement of funds. Reimbursement requests must be submitted in duplicate, one copy to the appropriate DEQ Regional Office and one copy to DEQ’s Chesapeake Bay Program.

The availability of grant funds in the WQIF for point source pollution control projects is subject to appropriation by the General Assembly and allocations made by the Secretary of Natural Resources. In the event of a shortfall, the Commonwealth is strongly committed to managing the WQIF to ensure full funding of all executed agreements and to following an equitable process for distribution of available funds among all grantees. This distribution process (such as Pro Rata of estimated construction expenses) will be addressed in more detail in the agreement signed with each grant recipient.

VI. State Cost Share Percentage

As provided in Section 10.1-2131.E of the Act, grants shall be awarded in the following manner:

1. In communities for which the ratio of annual sewer charges to reasonable sewer cost is less than 0.30, the Director of the Department of Environmental Quality shall authorize grants in the amount of 35 percent of the costs of the design and installation of ~~biological nutrient removal facilities or other~~ nutrient removal technology;
2. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.30 and less than 0.50, the Director shall authorize grants in the amount of 45 percent of the costs of the design and installation of ~~biological nutrient removal facilities or other~~ nutrient removal technology;
3. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.50 and less than 0.80, the Director shall authorize grants in the amount of 60 percent of the costs of design and installation of ~~biological nutrient removal facilities or other~~ nutrient removal technology; and
4. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.80, the Director shall authorize grants in the amount of 75 percent of the costs of the design and installation of ~~biological nutrient removal facilities or other~~ nutrient removal technology.

The "reasonable sewer cost" for each WQIF grantee will be determined using guidelines developed and approved by the State Water Control Board for use with the Virginia Clean Water Facilities Revolving Loan Fund. The grantee's annual sewer charge shall be defined as the average yearly expense for residential sewer service per housing unit connection that is currently being charged at the time application is made for WQIF cost-share. The above ratios will be calculated by dividing the current annual sewer charge by the reasonable sewer cost. Where multiple jurisdictions are provided sewer service through a regional District/district, /Authority authority or an inter-municipal sewer agreement, a weighted average of the median household income and a weighted average sewer charge will be calculated for comparison to the "reasonable sewer costs." These factors will be based on the current conditions regarding the portion of plant capacity presently used by each jurisdiction and location of residents served. Annual sewer charges and back-up documentation will be requested as part of each application.

As authorized by Virginia Code § 62.1-44.19:15, the WQIF may receive payments as a result of the acquisition of nutrient allocations. Such payments shall be promptly applied to achieve equivalent point or nonpoint source reductions in the same tributary beyond those reductions already deemed necessary by state or federal law or as established in the relevant tributary strategy plan.

~~If appropriations are made to the WQIF from surplus funds remaining after any fiscal year, grants awarded using those funds shall be for the sole purpose of designing and installing state-of-the-art nutrient removal technologies at publicly owned treatment works designated as significant dischargers. These funds shall also be available for grants to eligible applicants when the design and installation of state-of-the-art nutrient removal technology utilizes the Public-Private Education Facilities and Infrastructure Act (Section 56-575.1 et seq.). The grant amount to be awarded shall use the above ratios to determine the cost share percentage.~~

The Director may approve a point source grant application request that exceeds the authorized grant amount outlined in ~~Section §10.1-2131.E~~ of the Act and described above in Section F.1-4. Whenever a grant application exceeds the authorized grant amount outlined above, or when there is no stated limitation on the amount of the grant, the Director shall consider the comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government.

VII. Grant Agreement

A legally binding and enforceable agreement between the recipient and the Department of Environmental Quality shall govern all WQIF point source grants. Unless there are extenuating circumstances, a grant agreement will be signed only after the applicant has submitted an acceptable Preliminary Engineering Report (PER) to the Department for review and approval. Having details on the selected nutrient removal technology option identified in the PER will allow for determination of the eligible scope of work and grant award. In accordance with Section 10.1-2131 of the Act, the agreement shall include the following:

1. ~~4.~~ Numerical technology based effluent concentration limitations on nutrient discharges to state waters based upon the technology installed by the facility designed to achieve the nutrient reduction goals of the applicable tributary strategy plan. Consistent with Virginia Code Section §62.1-44.19:12 et seq. of the Code of Virginia, such concentration limits shall be based upon the technology installed by the facility ~~and shall be expressed as annual average values.~~

If, pursuant to Virginia Code §10.1-1187.6, the State Water Control Board approves an alternative compliance method to technology-based concentration limitations in VPDES permits, the concentration limitations above shall be suspended subject to the terms of such approval.

2. Enforceable provisions related to the maintenance of the numerical concentrations ~~limits~~ that will allow for exceedences of 0.8 mg/L for total nitrogen or no more than 10 percent, whichever is greater, for exceedences of 0.1 mg/L for total phosphorus or

no more than 10 percent, whichever is greater, and for exceedences caused by extraordinary conditions. The enforceable provisions will also include contractual or stipulated penalties in an amount sufficient to ensure compliance with the agreement, which may include repayment with interest for any non-performance or breach. Stipulated penalties will be calculated based on all past and current WQIF money awarded (except for the 2005 technical assistance grants) and the calculation of penalties may factor in the remaining useful service life of the system installed by deducting any years elapsed since the CTO was issued for the previous nutrient removal technology project.

3. Recognition of the authority of the Commonwealth to make the Virginia Water Facilities Revolving Fund (~~Virginia Code Section §62.1-224 et seq. of the Code of Virginia~~) available to local governments for their local share of the cost of designing and installing ~~biological nutrient removal facilities or other~~ nutrient removal technology, based on financial need and subject to availability of revolving loan funds, priority ranking, and revolving loan distribution criteria.

Grant agreements shall be made available for public review and comment for a period of no less than 30 days but no more than 60 days prior to execution. In addition to the standard terms and conditions of a state contract for financial assistance (including, but not limited to, project scope, schedules, budget and ~~compensation-reimbursement~~ provisions), the agreement shall:

1. provide for payment of the total amount of the grant, subject to the availability of funds;
2. govern design and installation;
3. require the grantee to complete installation of the nutrient removal facilities and place them into service regardless of the amount of grant funds received; and
4. require proper long-term operation, monitoring and maintenance of funded projects, including design and performance criteria.

VIII. Technical Assistance Grants

Under ~~Section §10.1-2131~~ of the Act, the DEQ Director may, at any time, authorize grants, including grants to institutions of higher education, for Technical Assistance (TA) related to nutrient reduction. The criteria used in making determinations for award of TA grants are:

- If the proposals are for work such as pilot demonstration projects and engineering studies for nutrient reduction (e.g., Basis of Design Reports).
- If the proposals will advance the understanding about, and the capabilities of, nutrient-reduction systems.
- If the results of the proposal lead to more cost-effective implementation actions for point sources.
- If the proposal for planning and/or design work is associated with a retrofit project and the applicant is not eligible to receive a construction grant, the TA grant will be limited to a cost-share of no more than 10% of the total construction cost (or cost for design, whichever is less) and must lead to approved plans and specifications.

- If the proposal is associated with evaluating and implementing measures to optimize or enhance existing operations (e.g., interim optimization plans). Projects of this type will generally involve only treatment process or system revisions, rather than changes at the facility that involve construction.

CHAPTER II: SUMMARY OF PROGRAM REQUIREMENTS

I. Introduction

This section provides a brief synopsis of the program requirements as they relate to other statutory or regulatory requirements included by reference, such as procurement law, and plans and specifications approval, so that grantees are fully aware of them and can act accordingly.

II. Procurement

All procurement made during the course of planning, design, and construction of the grant project must be purchased, acquired, or contracted for in accordance with Virginia Code Chapter 743 (Section 11-35 et seq.) of Title 11-2.2 of the *Code of Virginia*, also known as the Virginia Public Procurement Act. The WQIF point source program requires all participants to follow the provisions of the Procurement Act regardless of locality size.

III. Local Share

Prior to grant award, sufficient documentation must be provided by the applicant to demonstrate that the local share of the project is, or will be, available to fulfill the grantee's obligations under the agreement. Examples of acceptable forms of local share include, but are not limited to, general obligation revenue bonds, other state or federal grant funds or loans, and municipal budget items and revenue streams.

IV. Pre-Design Studies/Pilot Testing

Eligible pre-design tasks include any essential studies prior to final design, such as bench or pilot scale testing of conventional or innovative technologies, and cost-effectiveness analysis.

The grantee or its consultant will develop a Preliminary Engineering Report Proposal (PERP) or planning document, which assesses the current situation, projects future needs, develops alternatives, estimates the monetary costs, and presents a selected plan.

V. Design/Construction

The design and drafting of plans and specifications must conform to the Virginia Sewage Collection and Treatment (SCAT) Regulations [9 VAC 25-790 et. seq.] Close contact with the applicable Regional Offices of the DEQ is helpful in reducing delays at this stage. Since it is likely that installation of the nutrient reduction system is part of a larger scale or more complex plant upgrade or expansion project, a Preliminary Engineering Conference with the Department

~~of Environmental Quality DEQ~~ is strongly recommended prior to full-scale design. Final plans and specifications must be submitted for review, comment, and approval to ~~the Department of Environmental Quality DEQ~~. Processing of the plans and specifications will proceed as outlined in the SCAT Regulations, ultimately leading to the issuance of a Certificate to Construct.

The grantee may then proceed to advertise for construction bids, and is encouraged to hold a pre-bid conference so that the project can be presented to bidders and any questions they may have can be resolved. The bidding document must be structured to the extent practicable such that the cost for eligible project components can be readily determined. The grantee is responsible for, and must retain records that document, the use of proper bidding and bid selection when securing construction services. During construction the grantee must provide project inspection, documented with reports, to track construction progress, quality, and conformance with plans and specifications.

DEQ will conduct periodic (usually monthly) Interim Project Evaluations (IPE) to provide routine monitoring of WQIF construction projects. The IPE will assess compliance with program requirements by verifying that: the project is being managed properly, construction is generally in accordance with the approved plans and specifications, and disbursement requests coincide with actual work in place.

VI. Post-Construction/Operation and Maintenance

In addition to awarding the grant, the agreement signed by the grantee and DEQ shall govern the long-term operation and maintenance of the facilities installed with grant funds. Section 10.1-2131.C. of the Act specifies that grant agreements related to nutrient control shall include:

(i) numerical technology based effluent concentration limitations, based upon the technology installed by the facility~~numerical concentrations on nutrient discharges designed to achieve the nutrient reduction goals of the applicable tributary strategy plan;~~ and (ii) enforceable provisions related to the maintenance of numerical concentrations for exceedances of 0.8 mg/L for total nitrogen or no more than 10 percent, whichever is greater, for exceedances of 0.1 mg/L for total phosphorus or no more than 10%, whichever is greater, the numerical concentrations that will allow for exceedances of no more than 10%; and (iii) for exceedances caused by extraordinary conditions (defined in the agreement).

All grant agreements will contain a provision that requires the owner to monitor their discharge and report the ~~total nitrogen and (if applicable nutrient) total phosphorus~~ concentrations so that performance can be tracked. If nutrient monitoring requirements are not already contained in the plant's discharge permit, the agreement will specify the same sampling frequencies and analytical methods used in the VPDES permit program.

~~Agreements may also contain incentives designed to encourage the Grantee to operate the project to achieve pollution reductions greater than specified in the Agreement.~~

CHAPTER III: GRANTEE SELECTION

I. Application Solicitation

The annual point source grant cycle begins with the distribution of this guidance document and a solicitation for applications. The deadline for submission of applications is provided in the application form and will allow at least 45 days for proposal development. Applications must be sent to:

Virginia Department of Environmental Quality
P.O. Box 10009
Richmond, VA 23240
ATTN: WQIF Program Manager

II. Grant Priority Funding List Requirements

Funds appropriated to the WQIF for projects located in the Chesapeake Bay watershed can only be used to finance the cost to design and install ~~biological nutrient removal, state-of-the-art nutrient removal technology, or other nutrient control technology~~ at eligible publicly-owned treatment works designated as a significant discharger and meeting the nutrient reduction goal in an approved tributary strategy plan. DEQ staff will prioritize the eligible applications using the criteria in Chapter I paragraph (II) of Section B of this section, assess the cost-effectiveness of proposed actions, and review the proposals to ensure consistency with tributary strategy goals or applicable regulatory requirements. Such prioritization will recognize the requirement under ~~Section §10.1-2131.B.~~ of the Act that the Director shall enter into grant agreements with all facilities designated as significant dischargers or eligible nonsignificant dischargers that apply for grants. DEQ staff will present the prioritized list of qualified proposals to the State Water Control Board for their information and comment, along with recommendations for funding. Final approval and funding decisions will be made by the DEQ Director who has the responsibility and authority to award grants under this program in accordance with ~~Section §10.1-2122~~ of the Act.

The state is strongly committed to manage the award and allocation of grants to ensure full funding of all executed agreements, as well as to follow an equitable process for distribution of available funds among all grantees in the event of a shortfall. The distribution process will be addressed in the agreement signed with each grant recipient.

In subsequent years, new projects will be added to the priority list. Once the ~~cost-share needs for cost-sharing the design and installation of nutrient removal technology at eligible publicly owned treatment works~~ needs to implement all the Chesapeake Bay Tributary Strategy Plans are satisfied, or it is determined by the DEQ Director that there is sufficient funding above that required for substantial and continuing progress in implementation of the Tributary Strategy Plans, grant applications will be considered for any point source project that is clearly demonstrated as likely to achieve measurable and specific water quality improvements. At that stage, the Act requires that potential grant projects be prioritized, in accordance with specified criteria in ~~Section §10.1-2129~~, and other factors the Secretary of Natural Resources deems appropriate. No project can receive financial assistance under the WQIF unless it is on the

priority-funding list. However, it is not a requirement that projects receive cost share assistance in priority order.

Contact Information:

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